

Mahoney, Margaret Ann (USANJ)

From: Mahoney, Margaret Ann (USANJ)
Sent: Friday, August 27, 2021 1:24 PM
To: Peter Yim
Cc: Garcia-Malene, Gorka (NIH/OD) [E]; Lampe, Karen (NIH/OD) [E]; Bowen, Elizabeth (HHS/OGC)
Subject: RE: Settlement 3:21-cv-07031

Mr. Yim,

As per the discussion with the court, you stated on the record that an email response from the Government confirming that the link was in fact an NIH link and that it directed you to the exact document responsive to your FOIA request would satisfy you. You are now changing your position.

However, in order to comply with the Court's request that we attempt to settle this in good faith, we ask that you state, **with specificity, exactly** what language you would like the NIH to include in their response. Please send the **EXACT** language to me by the end of the day today. I will review the language and respond.

Thank you,

Margaret Mahoney

From: Peter Yim <yimpjp@gmail.com>
Sent: Friday, August 27, 2021 11:47 AM
To: Mahoney, Margaret Ann (USANJ) <MMahoney@usa.doj.gov>
Cc: Garcia-Malene, Gorka (NIH/OD) [E] <gorka.garcia-malene@nih.gov>; Lampe, Karen (NIH/OD) [E] <karen.lampe@nih.gov>; Bowen, Elizabeth (HHS/OGC) <Elizabeth.Bowen@hhs.gov>
Subject: Re: Settlement 3:21-cv-07031

I would like this change to be reflected in the formal NIH FOIA response letter.

On Fri, Aug 27, 2021 at 10:41 AM Mahoney, Margaret Ann (USANJ) <Margaret.Ann.Mahoney@usdoj.gov> wrote:

Mr. Yim,

Please be advised that the link you supplied, to wit <https://files.covid19treatmentguidelines.nih.gov/guidelines/archive/statement-on-ivermectin-01-14-2021.pdf>, is a valid NIH link that directs you to the document responsive to your FOIA request (#55822). As you will recall, on or about May 5, 2021, the NIH supplied you with the link to the archive tab and with specific directions regarding how to find the exact document you requested. It appears you were able to locate the publicly available document with those directions.

The NIH considers your FOIA request satisfied and based upon your representations to the Court, you will now also consider your FOIA request satisfied. To that end, attached above is a Stipulation of Dismissal Without

Prejudice. Please review the Stipulation, sign it, and email it back to me at your earliest convenience. Once I have the signed Stipulation, I will file it with the court, send you a copy via email, and the matter will be closed.

Thank you very much.

Margaret Mahoney

Assistant United States Attorney

District of New Jersey

From: Peter Yim <yimpjp@gmail.com>

Sent: Thursday, August 26, 2021 12:50 PM

To: Mahoney, Margaret Ann (USANJ) <MMahoney@usa.doj.gov>

Cc: Garcia-Malene, Gorka (NIH/OD) [E] <gorka.garcia-malene@nih.gov>; Lampe, Karen (NIH/OD) [E] <karen.lampe@nih.gov>; Bowen, Elizabeth (HHS/OGC) <Elizabeth.Bowen@hhs.gov>

Subject: Settlement 3:21-cv-07031

Ms. Mahoney,

You requested a link to the specific record that would be responsive to the FOIA request. That link is:

<https://files.covid19treatmentguidelines.nih.gov/guidelines/archive/statement-on-ivermectin-01-14-2021.pdf>

In our conference yesterday we were not able to reach a settlement. As before, I do not accept the FOIA response from the NIH, as is. However, I noted three settlements were proposed during the conference. One of these proposed settlements was mine. I will just restate that proposed settlement. The other two proposed settlements were by NIH. I will summarize those proposed settlements as I understand them and also ask for more details. I am open to any of these proposed settlements if we can agree on the details.

Proposed settlement 1 (Yim): The NIH responds to the FOIA request with a link to a specific responsive record. The NIH might provide the ivermectin-recommendation link listed above. If a responsive record does not exist, the NIH will state so.

Proposed settlement 2 (NIH): The NIH responds to the FOIA request by printing out and sending the responsive record by mail. Will the NIH be printing out the record at the ivermectin-recommendation link listed above?

Proposed settlement 3 (NIH): The NIH responds to the FOIA request by giving instructions on how to reach the responsive record. Will the instructions lead to the opening of the ivermectin-recommendation link listed above?

Also, a good time to talk would be Sept. 7 at 4:00 pm. Other times may also be OK.

Peter J. Yim

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